

The Supreme Court of Ohio

CASE ANNOUNCEMENTS

February 22, 2023

[Cite as *02/22/2023 Case Announcements, 2023-Ohio-482.*]

MERIT DECISIONS WITH OPINIONS

2022-0677. State ex rel. Huber Hts. Veterans Club, Inc. v. Skelton, Slip Opinion No. 2023-Ohio-485.

Montgomery App. No. 29476. Judgment affirmed.

Kennedy, C.J., and Fischer, DeWine, Donnelly, Stewart, Brunner, and Deters, JJ., concur.

2022-0696. State ex rel. Myles v. Goering, Slip Opinion No. 2023-Ohio-483.

Hamilton App. No. C-220112. Judgment affirmed.

Kennedy, C.J., and Fischer, DeWine, Donnelly, Stewart, and Brunner, JJ., concur.

Deters, J., not participating.

MERIT DECISIONS WITHOUT OPINIONS

2022-0581. State ex rel. Estate of Brame v. Hamilton Cty. Court of Common Pleas.

In Mandamus and Prohibition. On respondents' motions to dismiss. Motions granted. Cause dismissed.

Kennedy, C.J., and Fischer, DeWine, Donnelly, Stewart, and Brunner, JJ., concur.

Deters, J., not participating.

2022-1117. State ex rel. McCarley v. Aramark.

In Mandamus. On relator's motion for default judgment. Motion denied. Sua sponte, cause dismissed.

Kennedy, C.J., and Fischer, DeWine, Stewart, and Deters, JJ., concur.

Donnelly and Brunner, JJ., concur in part and dissent in part and would grant an alternative writ.

2022-1134. State ex rel. Robinson v. Tenth Dist. Court of Appeals.

In Mandamus. On respondent's motion to dismiss. Motion granted. Cause dismissed.

Kennedy, C.J., and DeWine, Donnelly, Stewart, Brunner, and Deters, JJ., concur.

Fischer, J., dissents.

2022-1351. Whitacre v. Seventh Dist. Court of Appeals.

In Mandamus. On respondent's motion to dismiss. Motion granted. Relator's motion to sanction counsel for respondent denied. Cause dismissed.

Kennedy, C.J., and Fischer, DeWine, Donnelly, Stewart, Brunner, and Deters, JJ., concur.

2022-1377. Koeberer v. Mackey.

In Procedendo and Prohibition. On motions to dismiss of respondents Judge Jeffrey D. Mackey and Robert E. Weir. Motions granted. Relator's motion for second stay pending further order of this court denied. Relator's motion for stay of hearing denied as moot. Sua sponte, cause dismissed as to remaining respondents. Cause dismissed.

Kennedy, C.J., and Fischer, DeWine, Donnelly, Stewart, Brunner, and Deters, JJ., concur.

2022-1409. State ex. rel. Spears v. Krapenc.

In Mandamus. Sua sponte, cause dismissed.

Kennedy, C.J., and Fischer, DeWine, Donnelly, Stewart, Brunner, and Deters, JJ., concur.

2022-1438. State ex rel. Sultaana v. Cuyahoga Cty. Sheriff's Dept.

In Mandamus. On relator's motion to consolidate with case No. 2022-1330. Motion denied. Respondent's motion to declare relator a vexatious litigator denied as moot; relator was declared a vexatious litigator in 2022-1330, *State ex rel. Sultaana v. Ohio Dept. of Rehab. & Corr.* Respondent's motion to dismiss granted. Relator's motion for statutory damages denied as moot. Cause dismissed.

Kennedy, C.J., and Fischer, DeWine, Donnelly, Stewart, Brunner, and Deters, JJ., concur.

2022-1452. State v. Nixon.

In Procedendo. On respondent's motion to dismiss. Motion granted. Cause dismissed.

Kennedy, C.J., and Fischer, DeWine, Donnelly, Stewart, Brunner, and Deters, JJ., concur.

2022-1464. State ex rel. Whitt v. Graham.

In Mandamus. On respondents' motion to dismiss. Motion granted. Relator's petition for removal of clerk of court and request to uphold removal of clerk of court denied as moot. Cause dismissed.

Kennedy, C.J., and Fischer, DeWine, Donnelly, Stewart, Brunner, and Deters, JJ., concur.

2022-1471. Justice v. Young.

In Mandamus and Prohibition. On respondent's motion to dismiss. Motion granted. Relator's request to file transcripts denied as moot. Cause dismissed.

Kennedy, C.J., and Fischer, DeWine, Donnelly, Stewart, Brunner, and Deters, JJ., concur.

2022-1478. State ex rel. Dates v. Hamilton Cty. Courthouse.

In Mandamus and Prohibition. On respondents' motions to dismiss. Motions granted. Requests of respondents Clunk, Hoose Co., L.P.A., Laura C. Infante, Leann Covey, and Law Offices of Richard Bardach, L.L.C., to declare relator a vexatious litigator granted. Carlean Dates found to be a vexatious litigator under S.Ct.Prac.R. 4.03(B) and prohibited from continuing or instituting legal proceedings in this court without first obtaining leave. Any request for leave shall be submitted to the clerk of this court for the court's review. Cause dismissed.

Kennedy, C.J., and Fischer, DeWine, Donnelly, and Stewart, JJ., concur.
Brunner and Deters, JJ., not participating.

2022-1505. State ex rel. Reese v. Logan.

In Mandamus. On respondent's motion to dismiss. Motion granted. Cause dismissed.

Kennedy, C.J., and Fischer, DeWine, Donnelly, Stewart, Brunner, and Deters, JJ., concur.

2022-1525. State ex rel. Tingler v. Sandusky Police Dept.

In Mandamus. On respondents' motions to dismiss. Motions granted. Relator's motion to waive affidavit requirement denied as moot. Relator's motion to strike and discharge counsel of record denied. Cause dismissed.

Kennedy, C.J., and Fischer, DeWine, Donnelly, Stewart, Brunner, and Deters, JJ., concur.

2022-1526. State ex rel. Tingler v. Perkins Twp. Police Dept.

In Mandamus. On respondent's motion for judgment on pleadings. Motion granted. Relator's motion to waive affidavit requirement denied as moot. Cause dismissed.

Kennedy, C.J., and Fischer, DeWine, Donnelly, Stewart, Brunner, and Deters, JJ., concur.

2022-1528. State ex rel. Tingler v. Ohio State Hwy. Patrol.

In Mandamus. On respondent's motion to dismiss. Motion granted. Relator's motion to waive affidavit requirement denied as moot. Cause dismissed.

Kennedy, C.J., and Fischer, DeWine, Donnelly, Stewart, Brunner, and Deters, JJ., concur.

2022-1532. State ex rel. Tingler v. McGookey.

In Mandamus. On respondent's motion to dismiss. Motion granted. Relator's motion to waive affidavit requirement denied as moot. Cause dismissed.

Kennedy, C.J., and Fischer, DeWine, Donnelly, Stewart, Brunner, and Deters, JJ., concur.

2022-1533. State ex rel. Tingler v. Toledo Police Dept.

In Mandamus. On respondents' motions to dismiss. Motions granted. Relator's motion to waive affidavit requirement denied as moot. Cause dismissed.

Kennedy, C.J., and Fischer, DeWine, Donnelly, Stewart, Brunner, and Deters, JJ., concur.

2022-1539. State ex rel. Tingler v. Howe-Gebbers.

In Mandamus. On relator's motion to waive affidavit requirement. Motion denied as moot. Sua sponte, cause dismissed.

Kennedy, C.J., and Fischer, DeWine, Donnelly, Stewart, Brunner, and Deters, JJ., concur.

2022-1540. State ex rel. Tingler v. Gross.

In Mandamus. On respondent's motion to dismiss. Motion granted. Relator's motion to waive affidavit requirement denied as moot. Cause dismissed.

Kennedy, C.J., and Fischer, DeWine, Donnelly, Stewart, Brunner, and Deters, JJ., concur.

2022-1544. State ex rel. Tingler v. Ohio Dept. of Rehab. & Corr.

In Mandamus. On relator's motion to waive affidavit requirement. Motion denied as moot. Pursuant to S.Ct.Prac.R. 12.04, cause dismissed for failure to state a claim upon which relief can be granted.

Kennedy, C.J., and Fischer, DeWine, Donnelly, Stewart, Brunner, and Deters, JJ., concur.

2022-1562. State ex rel. Tingler v. Ohio Atty. Gen.

In Mandamus. On respondent's motion to dismiss. Motion granted. Cause dismissed.

Kennedy, C.J., and Fischer, DeWine, Donnelly, Stewart, Brunner, and Deters, JJ., concur.

2022-1563. State ex rel. Tingler v. Cincinnati Police Dept.

In Mandamus. On respondents' motions to dismiss. Motions granted. Cause dismissed.

Kennedy, C.J., and Fischer, DeWine, Donnelly, Stewart, and Brunner, JJ., concur.

Deters, J., not participating.

2022-1568. State ex rel. Tingler v. Junk.

In Mandamus. Sua sponte, cause dismissed.

Kennedy, C.J., and Fischer, DeWine, Donnelly, Stewart, Brunner, and Deters, JJ., concur.

2022-1573. State ex rel. Tingler v. Bodenbender.

In Mandamus. Sua sponte, cause dismissed.

Kennedy, C.J., and Fischer, DeWine, Donnelly, Stewart, Brunner, and Deters, JJ., concur.

2022-1576. State ex rel. Tingler v. Howe-Gebbers.

In Mandamus. Sua sponte, cause dismissed.

Kennedy, C.J., and Fischer, DeWine, Donnelly, Stewart, Brunner, and Deters, JJ., concur.

2022-1584. State ex rel. Tingler v. Huron Cty. Sheriff's Office.

In Mandamus. On respondent's motion to dismiss. Motion denied. Respondent's motion to declare relator a vexatious litigator denied. Sua sponte, cause dismissed for failure to comply with S.Ct.Prac.R. 12.02(B)(1) (requiring that all complaints be supported by affidavit).

Kennedy, C.J., and DeWine, Donnelly, Stewart, and Brunner, JJ., concur.

Fischer and Deters, JJ., concur in part and dissent in part and would grant the motion to declare relator a vexatious litigator.

2022-1586. State ex rel. Tingler v. Huron Cty. Prosecutor's Office.

In Mandamus. On respondent's motion to dismiss. Motion denied. Respondent's motion to declare relator a vexatious litigator denied. Sua sponte, cause dismissed for failure to comply with S.Ct.Prac.R. 12.02(B)(1) (requiring that all complaints be supported by affidavit).

Kennedy, C.J., and DeWine, Donnelly, Stewart, and Brunner, JJ., concur.

Fischer and Deters, JJ., concur in part and dissent in part and would grant the motion to declare relator a vexatious litigator.

2022-1591. State ex rel. Tingler v. Richland Cty. Sheriff's Office.

In Mandamus. On respondent's motion to dismiss. Motion granted. Cause dismissed.

Kennedy, C.J., and Fischer, DeWine, Donnelly, Stewart, Brunner, and Deters, JJ., concur.

2022-1623. State ex rel. Tingler v. Toledo Police Dept.

In Mandamus. On respondents' motions to dismiss. Motions granted. Cause dismissed.

Kennedy, C.J., and Fischer, DeWine, Donnelly, Stewart, Brunner, and Deters, JJ., concur.

2022-1628. State ex rel. Tingler v. Lucas Cty. Clerk of Courts.

In Mandamus. On respondent's motion to dismiss. Motion granted. Cause dismissed.

Kennedy, C.J., and Fischer, DeWine, Donnelly, Stewart, Brunner, and Deters, JJ., concur.

MOTION AND PROCEDURAL RULINGS

2016-1108. State v. Harris.

Franklin App. No. 15AP-683, [2016-Ohio-3424](#). On appellant's "memorandum appealing Judge decision for re-sentencing." Memorandum dismissed.

2021-0215. State v. Haynes.

Wood App. No. WD-19-035, [2020-Ohio-6977](#). On appellee's motion for order or relief pursuant to S.Ct.Prac.R. 4.01. Motion denied.

2021-0339. State v. Barnes.

Ross App. No. 19CA3687, [2020-Ohio-3943](#). On appellant's motion for reopening appeal. Motion denied.

2021-0725. State ex rel. Mobley v. Ohio Dept. of Rehab. & Corr.

In Mandamus. On relator's motion for order of contempt of court and motion for postjudgment interest. Motions denied.

2021-0836. State ex rel. DeMarco v. Indus. Comm.

Franklin App. No. 19AP-227, [2021-Ohio-1937](#). On appellant's motion to reopen case. Motion granted. Cause reopened.

2022-0458. In re Application of E. Ohio Gas Co.

Public Utilities Commission, No. 19-468-GA-ALT. On motion of appellee East Ohio Gas Company d.b.a. Dominion Energy Ohio to strike portions of appellants' reply brief. Motion denied.

2022-0591. Waterhouse v. Summit Cty. Common Pleas.

In Mandamus. On relator's motion for sanctioned default judgment. Motion denied.

2022-1146. State v. Harrison.

Logan App. No. 8-22-05, [2022-Ohio-2537](#). On appellant's motion for stay/bail pending appeal. Motion denied.

2022-1154. State ex rel. Howard v. Turner.

In Mandamus. Sua sponte, alternative writ granted. The following schedule is set for the presentation of evidence and filing of briefs pursuant to S.Ct.Prac.R. 12.05: The parties shall file any evidence they intend to present within 20 days, relator shall file a brief within 10 days after the filing of the evidence, respondents shall file a brief within 20 days after the filing of relator's brief, and relator may file a reply brief within 7 days after the filing of respondents' brief. Relator's "motion to strike respondent[']s answer as being untimely pursuant to S.Ct.Prac.R. 12.04(A)(1) and to strike the notice of appearance for respondents" and "request for leave instanter to file motion to strike respondents' answer/notice of appearance and relator's request for statutory damages" denied.

Brunner, J., would grant relator's "request for leave instanter to file motion to strike respondent's answer/notice of appearance and relator's request for statutory damages."

2022-1242. State ex rel. Mather & Assured Administration, L.L.C. v. Oda.

In Prohibition. On relators' motion for leave to file supplemental complaint. Motion granted. Sua sponte, respondents ordered to file answers to the supplemental complaint within 21 days.

Respondents' motion to withdraw amended answer and motion to withdraw motion for judgment on pleadings granted. Relators' motion to strike amended answer and motion to strike motion for judgment on the pleadings denied as moot. Joint motion of Steve Yeoman et al. to intervene as respondents granted.

Sua sponte, alternative writ granted. The following schedule is set for the presentation of evidence and filing of briefs pursuant to S.Ct.Prac.R. 12.05: The parties shall file any evidence they intend to present within 20 days of the filing of respondents' answers to the supplemental complaint, relators shall file a brief within 10 days after the filing of the evidence, respondents shall file a brief within 20 days after the filing of relators' brief, and relator may file a reply brief within 7 days after the filing of respondents' brief.

Brunner, J., would allow seven days for the filing of respondents' answers to the supplemental complaint.

2022-1251. In re Z.C.

Ashtabula App. No. 2022-A-0014, [2022-Ohio-3199](#). On review of order certifying a conflict. The court determines that a conflict exists. The parties are to brief the

conflict question as stated in *In re Z.C.*, 2022-Ohio-3199, 195 N.E.3d 590, ¶ 23 (11th Dist.): “When reviewing a trial court’s decision to terminate parental rights, is the appellate standard of review abuse of discretion, manifest weight of the evidence, clear and convincing evidence, or sufficiency of the evidence?” The conflict cases are *In re S.V.*, 6th Dist. Wood No. WD-13-060, 2014-Ohio-422; *In re Y.M.*, 5th Dist. Tuscarawas Nos. 2021 AP 09 0020 through 0023, 2022-Ohio-677; *In re Ca.S.*, 4th Dist. Pickaway Nos. 21CA9 and 21CA10, 2021-Ohio-3874; *In re W.W.*, 1st Dist. Hamilton Nos. C-110363 and C-110402, 2011-Ohio-4912; *In re R.B.*, 12th Dist. Butler Nos. CA2022-01-003 and CA2022-01-004, 2022-Ohio-1705.

Donnelly, J., dissents.

2022-1450. State ex rel. Barr v. Wesson.

In Mandamus. Sua sponte, alternative writ granted. The following schedule is set for the presentation of evidence and filing of briefs pursuant to S.Ct.Prac.R. 12.05: The parties shall file any evidence they intend to present within 20 days, relator shall file a brief within 10 days after the filing of the evidence, respondent shall file a brief within 20 days after the filing of relator’s brief, and relator may file a reply brief within 7 days after the filing of respondent’s brief.

2022-1523. State ex rel. Griffin v. Szoke.

In Mandamus. Sua sponte, alternative writ granted. The following schedule is set for the presentation of evidence and filing of briefs pursuant to S.Ct.Prac.R. 12.05: The parties shall file any evidence they intend to present within 20 days, relator shall file a brief within 10 days after the filing of the evidence, respondent shall file a brief within 20 days after the filing of relator’s brief, and relator may file a reply brief within 7 days after the filing of respondent’s brief.

Fischer and Donnelly, JJ., dissent and would dismiss the cause.

2022-1643. DJD Invest. Co., Ltd. v. Holsopple.

Cuyahoga App. Nos. 111549 and 111696, [2022-Ohio-4089](#). On appellants’ motion for stay of execution of judgment or, alternatively, filing of supersedeas bond. Motion denied.

2023-0027. Duncan v. Schumaker.

Clark App. No. 2022-CA-71, [2022-Ohio-4625](#). On appellee’s motion to substitute Daniel P. Driscoll, Clark County Prosecuting Attorney, for Stephen A. Schumaker. Motion granted.